

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ARTHUR BLUMEYER, III,)	
)	
Movant,)	
)	
v.)	No. 4:07CV15 JCH
)	
P. COSTNER,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before the Court on Arthur Blumeyer's motion to vacate his sentence pursuant to 28 U.S.C. § 2255.¹ Blumeyer previously filed a motion to vacate his sentence pursuant to 28 U.S.C. § 2255, which was denied on the merits. Blumeyer v. United States, No. 4:98CV301 JCH (E.D. Mo.). Blumeyer appealed and the United States Court of Appeals for the Eighth Circuit denied him a certificate of appealability and dismissed his appeal. See Blumeyer v. United States, No. 01-2404 (8th Cir. Aug. 27, 2001). Blumeyer has since filed several motions that have been construed as successive motions to vacate pursuant to § 2255. E.g., Blumeyer v. United States, No. 4:02-CV-926-JCH (E.D. Mo.).

Blumeyer may not file a successive motion to vacate his sentence pursuant to § 2255 without first obtaining permission from

¹Blumeyer filed this action in the Eastern District of Texas, the district in which he is incarcerated, under 28 U.S.C. § 2241. That court found that relief under § 2241 was not available to Blumeyer and that the motion should be construed as having been brought under § 2255. The case was then transferred to this Court.

the Eighth Circuit. 28 U.S.C. § 2244(b)(3)(A). Because Blumeyer has not obtained such permission, this Court lacks jurisdiction to grant the motion. As a result, the motion shall be denied.

Accordingly,

IT IS HEREBY ORDERED that Blumeyer's motion to vacate his sentence pursuant to 28 U.S.C. § 2255 [#1] is **DENIED**.

IT IS FURTHER ORDERED that this Court shall not issue a certificate of appealability. 28 U.S.C. § 2253.

Dated this 29th Day of January, 2007.

/s/ Jean C. Hamilton
UNITED STATES DISTRICT JUDGE